



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

15 West Yakima Avenue, Suite 200 • Yakima, Washington 98902-3452 • (509) 345-2490

June 20, 2005

**CERTIFIED MAIL 7002 2410 0007 8527 1408**

David Kaumheimer  
Environmental Program Manager, U.S. Bureau of Reclamation  
Upper Columbia Area Office  
1917 Marsh Road  
Yakima WA 98901

**RE: DOCKET NO. 2508 KRD 1146 WASTEWAY**

Dear Mr. Kaumheimer:

The request for certification for proposed work in wetlands and adjacent to the Yakima River has been reviewed. On behalf of the State of Washington, we certify that the proposed work, as conditioned by the enclosed Order, will comply with applicable provisions of Sections 301, 302, 303, 306 and 307 of the Clean Water Act, as amended, and other appropriate requirements of State law. This letter also serves as the State response to the Corps of Engineers.

This certification is subject to the conditions contained in the enclosed Order. If you have any questions, please contact Catherine Reed at (509) 575-2616. Written comments can be sent to her at the Department of Ecology, Central Regional Office or at [craj461@ecy.wa.gov](mailto:craj461@ecy.wa.gov). The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

*Gregory Schuler*  
*for Jeff Lewis*

Jeff Lewis, Section Manager  
Shorelands and Environmental Assistance Program

CRjw050512

Enclosure

cc: Corps of Engineers – Joe Brock  
WDFW – Brent Renfrow  
Penny Keys – Ecology SEA HQ



**IN THE MATTER OF GRANTING**

**A WATER QUALITY  
CERTIFICATION TO:**

U. S. Bureau of Reclamation  
in accordance with 33 U.S.C. 1341  
FWPCA § 401, RCW 90 48 260  
and WAC 173-201A

**ORDER No. 2508**

**Corps permit No. 200400964**

Construct two portage ramps and two  
anchors for a buoy line in the Yakima  
River near the KRD 1146 Wasteway  
discharge area.

TO: U. S. Bureau of Reclamation  
David Kaumheimer, Environmental Program Manager  
Upper Columbia Area Office  
1917 Marsh Road  
Yakima, Washington 98901

On October 5, 2004, a public notice for a proposed water quality certification from the State of Washington was distributed for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA§ 401). The proposed project entails placement of 36 cubic yards of fill material to construct two 12-foot wide pre-cast concrete plank portage ramps and to anchor a buoy line at two places in mid-river outside of the plunge pool basin. The proposed portage ramps will be placed upstream and downstream of the plunge pool area and would be connected by a newly constructed upland trail. In addition, 40 cubic yards of temporary fill material (sandbags) will be placed to construct a cofferdam around each portage ramp work site. The purpose of the project is to protect public safety as they navigate this section of the Yakima River.

**AUTHORITIES:**

In exercising authority under 33 U.S.C. 1341, 16 U.S.C. 1456, and RCW 90.48.260, Ecology has investigated this application pursuant to the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. Sections 1311, 1312, 1313, 1316, and 1317 (FWPCA Sections 301, 303, 306 and 307);
2. Conformance with the state water quality standards as provided for in Chapter 173-201A WAC authorized by 33 U.S.C. 1313, and by Chapter 90.48 RCW, and with other appropriate requirements of state law; and
3. Conformance with the provision of using all known, available, and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

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**CONDITIONS OF ORDER No. 2508 AND WATER QUALITY CERTIFICATION:**

In view of the foregoing, and in accordance with 33 U.S.C. 1341, 90.48.260 RCW and Chapter 173-201A WAC, water quality certification is granted to the U. S. Bureau of Reclamation subject to the following conditions:

**A. No Impairment of Water Quality:**

- A1. The Yakima River waters at this location in WRIA # 39 are Class A waters of the state. Certification of this proposal does not authorize U. S. Bureau of Reclamation to exceed applicable state water quality standards (173-201A WAC) or sediment quality standards (173-204 WAC). Water quality criteria contained in 173-201A-030(1) WAC and 173-201A-040 WAC shall apply to this project, unless otherwise authorized by Ecology. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in 173-201A-110(3). Furthermore, nothing in this certification shall absolve U. S. Bureau of Reclamation from liability for contamination and any subsequent cleanup of surface waters or sediments occurring as a result of project construction or operations.

The Yakima River has been identified on the current 303(d) list as exceeding state water quality standards for DDT, Mercury, Dieldrin, Silver, Copper, Cadmium, Dissolved Oxygen and Temperature. This proposed project shall not result in further exceedances of these standards.

**B. Project Mitigation:**

- B1. Impacts to aquatic resources shall be mitigated through measures described in the following documents, except as modified by this Order and as the referenced documents are amended to reflect a new in-stream work-window:

Joint Aquatic Resource Permit Application (JARPA) application (March 11, 2005)

Assessment of Potential Effects to Middle Columbia Summer Steelhead from Modifications to the 1146 Wasteway Watercraft Barrier (USBR, 2004)

Biological Assessment of Potential Effects to Bull Trout from Modifications to the 1146 Wasteway Watercraft Barrier (USBR, 2004)

Biological Opinion (National Marine Fisheries, Northwest Region; January 26, 2005)

Biological Opinion (U.S. Fish and Wildlife Service; January 27, 2005)

Hydraulic Project Approval ST-F5157-02 or as amended.

B2. Selected mitigation measures from the above documents include:

1. The entire in stream work area, especially equipment travel paths and boulder placement sites, will be surveyed for steelhead redds prior to in-water constructions activities.
2. If steelhead redds are found during pre-construction worksite surveys, the Bureau of Reclamation will avoid and/or minimize harm using the following methods: a) altering the location of the boulder placement sites; b) modifying heavy equipment operation paths to avoid redds; c) erecting redd protection structures in downstream areas.
3. All equipment will be free from leaking fuel, oil, hydraulic fluid and other external petroleum based products.
4. Any fueling of vehicles and equipment shall take place at least 250 feet from the Ordinary High Water Mark (OHWM).
5. The ramp area excavations shall be conducted within a sandbag cofferdam to isolate the worksite and prevent sediments from entering the river.
6. Turbid waters generated during construction activities in isolated work areas shall be pumped upland to sites lacking surface water connection to the adjacent Yakima River.
7. Disturbed riparian areas will be replanted with native woody species at a ratio of ten rooted seedlings for every mature tree destroyed, species for species. Minimum planting density will be 3 feet on-center.
8. Erosion control Terms and Conditions, including conservation measures and best management practices, will be monitored and corrective action taken if necessary to ensure protection of riparian areas and waterways.

B3. In addition to conditions contained in the above-referenced documents, the following requirements shall be conditions for all mitigation sites:

1. The survey area for steelhead redds shall include the streambed within 300 feet downstream of the work area.
2. Plantings, mulching, seeding and/or other best management practices shall be applied to all disturbed work areas to protect the river from the input of sediments and to return those areas to a native vegetation cover type and density that is at least equal to local area undisturbed riparian area reference sites.

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**B. Stormwater Management:**

The pathway between portage ramps will be constructed to the smallest width practicable, with both temporary and permanent erosion control measures installed along the trail to prevent on-going sediment production that could enter the river. These measures *may* include (but are not restricted to) the following: gravel topdressing, water-bar installation, native plant and grass seeding, etc.

**D. Construction:**

**D1. Construction Stormwater and Erosion Control:**

D1a. Work in or near waters of the state shall be done so as to minimize turbidity, erosion, and other water quality impacts. Construction stormwater, sediment and erosion control Best Management Practices suitable to prevent exceedances of state water quality standards (*e.g.*, hay bales, detention areas, filter fences, etc.), shall be in place before starting clearing, filling, and grading work at the impact site.

D1b. Prior to clearing and grading in wetlands, the adjacent wetlands shall be protected from construction impacts. Construction fencing or flagging (using brightly colored tape at no less than twenty-five foot (25') intervals) of the existing wetlands and stream channels to be protected shall be completed prior to clearing. All project staff shall be trained to recognize construction fencing or flagging that identifies wetland boundaries. Equipment shall not be moved into or operated in wetlands or stream channel areas that are not authorized to be filled.

D2. During clearing and filling at the various project sites, U. S. Bureau of Reclamation shall take all necessary measures to minimize the alteration or disturbance of existing wetland and upland vegetation.

D3. All construction debris shall be properly disposed of on land so that it cannot enter a waterway or cause water quality degradation to state waters.

D4. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall be contained for proper disposal, and shall not be discharged into state waters.

**E. Emergency/Contingency Measures:**

E1. In the event U. S. Bureau of Reclamation is unable to comply with any of the permit terms and conditions due to any cause, U. S. Bureau of Reclamation shall:

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- Immediately take action to stop, contain, and clean up unauthorized discharges or otherwise stop the violation and correct the problem.
- Notify Ecology of the failure to comply. Spill events shall be reported immediately to Ecology's 24-Hour Spill Response Team at 509 575-2490, and within 24 hours to Ecology's 401 permit reviewer (Catherine Reed) at (509) 575-2616.
- Submit a detailed written report to Ecology within five days that describes the nature of the violation, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of any samples taken, and any other pertinent information.

Compliance with this condition does not relieve U. S. Bureau of Reclamation from responsibility to maintain continuous compliance with the terms and conditions of this Order or the resulting liability from failure to comply.

- E2. Fuel hoses oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters. No refueling of equipment shall occur over, or within 250 feet of creeks or wetlands.

**F. General Conditions:**

- F1. This certification does not exempt and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.

All conditions in the following permits, approvals, and documents are incorporated herein and are specific conditions of this Order:

- Hydraulic Project Approval ST-F5157-02 issued on January 27, 2005, or as modified by the Washington Department of Fish and Wildlife
- Kittitas County Floodplain Development Permit / Shoreline Substantial Development Permit Exemption (April 6, 2005)

- F2. U. S. Bureau of Reclamation will be out of compliance with this certification if the project is constructed and/or operated in a manner not consistent with the project description contained in the Public Notice for certification, or as otherwise approved by Ecology. Additional mitigation measures may be required through other local, state, or federal requirements.

- F3. U. S. Bureau of Reclamation will be out of compliance with this certification and must reapply with an updated application if five years elapse between the date of the issuance of this certification and the beginning of construction and/or discharge for which the federal license or permit is being sought.

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- F4. U. S. Bureau of Reclamation will be out of compliance with this certification and must reapply with an updated application if the information contained in the Public Notice is voided by subsequent submittals to the federal agency. Any future action at this project location, emergency or otherwise, that is not defined in the public notice, or has not been approved by Ecology, is not authorized by this Order. All future actions shall be coordinated with Ecology for approval prior to implementation of such action.
- F5. Copies of this Order shall be kept on the job site and readily available for reference by Ecology personnel, the construction superintendent, construction managers and foremen, and state and local government inspectors.

To avoid violations or non-compliance with this Order, U. S. Bureau of Reclamation shall ensure that project managers, construction superintendents, and other responsible parties have read and understand relevant aspects of this Order, the HPA, and any subsequent revisions or Ecology-approved plans.

- F6. U. S. Bureau of Reclamation shall provide access to the project site and all mitigation sites upon request by Ecology personnel for site inspections, monitoring, necessary data collection, or to ensure that conditions of this Order are being met.
- F7. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines further actions are necessary to implement the water quality laws of the state. Further, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified (e.g., violations of water quality standards, downstream erosion, etc.), or if additional conditions are necessary to further protect the public interest.
- F8. Liability: Any person who fails to comply with any provision of this Order shall be liable for a penalty of up to ten thousand dollars (\$10,000) per violation for each day of continuing noncompliance.

#### Appeal Process:

Any person aggrieved by this Order may obtain review thereof by appeal, within thirty (30) days of receipt of this Order, to the Washington Pollution Control Hearings Board, P.O. Box 40903, Olympia, WA 98504-0903. Concurrently, a copy of the appeal must be sent to the Department of Ecology, Enforcement Section, P.O. Box 47600, Olympia, WA 98504-7600. These procedures are consistent with the provisions of Chapter 43.21B RCW and the rules and regulations adopted thereunder.

Dated 6-20-05 at Yakima, Washington Gregory Schuler  
for Jeff Lewis  
Jeff Lewis, Section Manager, Shorelands and  
Environmental Assistance  
CRO Department of Ecology State of Washington